

## **REMARKS**

Claims 1, 8, 14 and 16-19 have been amended. Claims 4 and 15 have been cancelled. Claims 20 and 21 have been added. Following entry of the above Amendment, claims 1-3, 5-14 and 16-21 are pending. Claims 1-19 stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by DeNicola et al. (U.S. Pat. No. 6,288,753; hereinafter referred to as “DeNicola”).

### **Rejections Based Upon 35 U.S.C. §102(e)**

Claims 1, 8 and 14 are amended to include elements previously included in claims 4 and 15, which have been cancelled. With respect to amended, independent claims 1, 8 and 14, DeNicola does not teach or suggest using images of students for the purpose of verifying the identification of a particular student during a test.

In fact, the student images of DiNicola are employed to provide the teacher, or “Instructor,” of a particular online course a class-like atmosphere (col. 4, lines 46-51; col. 8, lines 24-29). In other words, DiNicola describes the transmission of images to an “Instructor,” who views groups of students in class room settings (see Element 24, Figure 2). In contrast, DiNicola’s testing is performed on individual students in conjunction with a “Test Administrator” (col. 11, line 48 through col. 13, line 63). There is no suggestion of transmitted student images with respect to either student testing in general or the Test Administrator in particular. Even if DiNicola’s Instructor conducted testing, which Applicant contends is not suggested by the cited art, there is no mechanism suggested for the Instructor to correlate a specific student’s image from among images of groups of students to a specific test for the purpose of validating the test.

With respect to dependant claims 5, 20 and 21, DiNicola neither teaches nor suggests the storing of images within the transcript. Specifically, DiNicola produces “profiles of keywords, descriptions, course and class relevance, test/question/answer relevance, associated files and graphics” (col. 6, lines 11-14). The following excerpt lists the information included within DeNicola’s client report:

Reports are generated automatically or on-demand to show a client’s (i.e., a company’s) overall score, individual employees’ test scores, account status, course registration, participation and fulfillment of courses, and current rankings

compared to other clients regionally, nationally, and overall that are taking the same course (FIG. 13).

(col. 15, lines 34-39). Due to the nature of DeNicola's subject matter, i.e. providing a class-like atmosphere for an on-line course, there is no need to store student images, particularly in conjunction with a transcript. Thus, DeNicola does not teach or suggest Applicant's claimed subject matter directed at storing images within a transcript for the purpose of verifying a student's identity with respect to an exam.

Each of dependant claims 2-7, 9-13 and 15-21 are allowable at least for the fact that they depend upon one of the allowable independent claims.

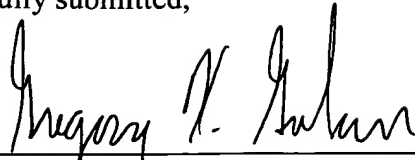
### CONCLUSION

In order to reject a claimed invention under §102(e), the cited reference must teach every aspect of the claimed invention either explicitly or impliedly. (M.P.E.P. §706.02). To establish *prima facie* obviousness of a claimed invention under §103(a), all the claim limitations must be taught or suggested by the prior art. (M.P.E.P., §2143.03, citing *in re Royka*, 490 F.2d 981; 180 U.S.P.Q. 580 (CCPA 1974)). In addition, "**All words in a claim must be considered** in judging the patentability of that claim against prior art." (*Id.*, citing *In re Wilson*, 424 F.2d 1382, 1385; 165 U.S.P.Q. 494, 496 (CCPA 1970); *emphasis added*).

It is respectfully submitted that all issues and rejections have been adequately addressed and that pending claims 1-19 are allowable and that the case should be advanced to issuance. If the Examiner has any questions or wishes to discuss the claims, the Examiner is encouraged to call the undersigned at the telephone number indicated below.

It is believed that no fees are due with the filing of this Response. However, should any fees be due, the Commissioner is hereby authorized to charge such fees to the deposit account of Hulsey Grether + Fortkort, LLP, Deposit Account No. 50-27276.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gregory K. Goshorn", is written over a horizontal line.

Date: August 30, 2004

By: Gregory K. Goshorn

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